IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.930 OF 2004

Ankush Pandurang Kale & ors. .. Petitioners
v/s.
Gram Panchayat, Banpuri & ors. .. Respondents

Mr.R.V.More for petitioners.

Mrs.M. Thakur, AGP for res.Nos.4 & 5.

Mr.P.A.Pol for res.No.1.

Other respondents are served.

CORAM : H.L. GOKHALE &
SMT.R.S.DALVI, JJ.

DATE : 7th July 2005

P.C. :

1. Heard the learned Counsel for the parties.

2. The petitioners are villagers from village Banpuri Taluka Atpadi District Sangli. They claim to be below the poverty line. In a scheme sponsored by the District Rural Development Agency, some Galas were to be constructed in the villages for providing gainful occupation to the villagers who are below the poverty line. It is the case of the petitioners that a resolution was passed by the Gram Panchayat of the village on 26.1.1999 recommending that such Galas be constructed and allotted to the petitioners and some four others. What has happened, however, is that when the Galas were constructed, another Sarpanch had come into

power and in fact, the Galas came to be allotted to respondent Nos.6 to 11 and some four others.

3. It is the further case of the petitioners that they represented to the concerned Authorities in this regard. The concerned Authorities of the Zilla Parishad, in fact, found substance in the grievances and an appropriate notice was given by the Block Development Officer on 17th June 2003. It is averred in the petition that, in fact, the allotment to the wrongful allottees was to be cancelled and fresh decision was to be taken in the Gram Sabha. It is at that stage that respondent Nos.6 to 11 approached the Civil Court and filed Regular Civil Suit No.69 of 2003 in the Court of Civil Judge, Junior Division, Atpadi and obtained an order of status quo. The petitioners have approached this Court by pointing out all these facts and seeking a cancellation of the allotment in favour of respondent Nos.6 to 11 and some four others.

4. Mr.More, learned Counsel appearing for the petitioners, submitted that the Galas were constructed by the District Rural Development Agency entirely at its own costs. The occupants are only some kind of licensees of this Agency and

if the allotments are wrongful, the Agency should be the proper Authority to cancel those allotments.

5. Mr.More has drawn our attention to the Affidavit filed by one Shri A.G. Navale, Project Director, District Rural Development Agency, Sangli, affirmed on 21st April 2004, who has, in fact, stated that, according to the record of the Agency, the names of the petitioners were included amongst the prospective allottees and not of respondent Nos.6 to 11 and some four others.

6. Mr.Pol, learned Counsel appearing for respondent No.1-Gram Panchayat, submits that what the petitioners are contending is not correct. It is not the Resolution of 26.1.1999, but one passed on 22nd August 2003 which is the material resolution and in that resolution, respondent Nos.6 to 11 and some four others are the successful allottees.

7. According to us, this question should be decided by the Authorities of the District Rural Development Agency. The Galas are a property of that Agency. The Agency was given the names of persons concerned, who were below the poverty line

and for whose benefits the Galas were to be constructed and allotted. In our view, the proper course will be that this Agency should take a decision. We are, however, of the view that the decision should be taken after giving a notice to the present allottees i.e. respondent Nos.6 to 11 and four others, apart from the Gram Panchayat. We, therefore, expect the Chief Executive Officer of the Zilla Parishad or the Block Development Officer, if the Chief Executive Officer assigns the work to the Block Development Officer, to look into the grievances made by the petitioners. He will call for the record of the Gram Panchayat. He will also look into the record which was made available to the Agency earlier i.e. prior to the construction. He will look into the representation of respondent Nos.6 to 11 and four others, who are the present allottees, hear them and then pass appropriate orders. He will as well hear the petitioners and four others, who are the complainants.

8. The parties to this petition including the petitioners, who are not party to the above-referred Civil Suit, will be at liberty to produce the decision taken by the District Rural Development Agency before the Civil Court for the

Civil Court to pass appropriate orders after considering that decision.

9. The Chief Executive Officer or the Block Development Officer, if the work is assigned to the Block Development Officer, will give a notice to all concerned to appear before him on Monday, 25th July 2005 in his office between 11 A.M. and 12 Noon or if there is any such other date as he may deem fit and thereafter decide the controversy within two months and in any case, by the end of September 2005.

10. Petition stands disposed of.

(H.L. GOKHALE, J.)

(SMT. R.S.DALVI, J.)